

MJC:ljc 95448 \Pleadings\95448 32 Our MT Stay Proceedings & Memo 1-6-21

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CHARM HOWIE	:	
	:	
VS.	:	C.A. NO. 1:17-cv-00604-JJM-LDA
	:	
CITY OF PROVIDENCE, by and through its	:	
Treasurer, JAMES J. LOMBARDI, III, ET AL	:	

**[FILER'S NOTE: This motion has also been contemporaneously filed in the following matters:
C.A. Nos. 18-00523-JJM-PAS, 19-00591-JJM-PAS, and 19-00283-MSM-PAS.]**

MOTION TO STAY PROCEEDINGS

Now comes the defendant, Matthew Sheridan, and moves, pursuant to the Servicemember's Civil Relief Act (SCRA), 50 U.S.C. § 3932, that all proceedings in this matter be stayed as outlined in the attached memorandum of law.

DEFENDANT, MATTHEW SHERIDAN,
By his Attorney,

/s/ Michael J. Colucci
Michael J. Colucci, Esq. #3302
OLENN & PENZA, LLP
530 Greenwich Avenue
Warwick, RI 02886
PHONE: (401) 737-3700
FAX: (401) 737-5499

CERTIFICATION

I hereby certify that I have filed the within with the United States District Court on this 13th day of January, 2021, that a copy is available for viewing and downloading via the ECF system, and that I have caused a copy to be sent to:

Shannah Kurland, Esq.
149 Lenox Avenue
Providence, RI 02907

Kevin F. McHugh, Sr. Asst. City Solicitor
Providence Law Department
444 Westminster Street, Suite 220
Providence, RI 02903

/s/ Michael J. Colucci

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CHARM HOWIE

VS.

CITY OF PROVIDENCE, by and through its
Treasurer, JAMES J. LOMBARDI, III, ET AL

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C.A. NO. 1:17-cv-00604-JJM-LDA

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO STAY PROCEEDINGS

Defendant Matthew Sheridan is a member of the Rhode Island National Guard and a named defendant in this action. Defendant Sheridan has been ordered to active duty effective January 21, 2021, for a period of [REDACTED] to serve [REDACTED] in support of Operation [REDACTED]. It is believed that at a bare minimum, Sheridan's [REDACTED] duties will be required for at least [REDACTED] and as such, your defendant seeks that this matter be stayed through [REDACTED] with a reassessment at that time as to whether a further stay is required. In conjunction herewith, your defendant would not be opposed to an exception to this stay solely for those matters that *all parties agree* can be voluntarily completed or attended to, such as remaining discovery issues, which would not require any input from defendant Sheridan.

As such, defendant Sheridan is seeking a stay of all proceedings with the exception of those matters that all parties agree can go forward as above described. The period of stay requested is through [REDACTED] with a reassessment at that time as to whether a further stay is required.

In support hereof, the Servicemember's Civil Relief Act (SCRA) authorizes a stay of any civil action or proceeding in which the plaintiff or defendant is in military service or is within ninety (90) days after termination of or release from military service, 50 U.S.C. § 3932(a)(1).

At any stage before final judgment in which such a servicemember is a party, the Court may, on its own motion, and shall, upon application by the servicemember, stay the action for a period of not less than ninety (90) days where, in conjunction with the motion, the servicemember also provides:

- (A) A communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear, and stating a date when the servicemember will be able to appear; and
- (B) A communication from the servicemember's commanding officer stating that his current military duty prevents appearance and that military leave is not authorized at the time of said communication, *Id.* at (b)(2).

Exhibit A contains the activation orders for defendant Sheridan issued by the Department of the Army, which requires Sheridan to report to [REDACTED] on February 4, 2021, then on to [REDACTED] followed by [REDACTED] which is an ongoing operation [REDACTED]. The period of activation is [REDACTED].

Exhibit B is a letter from Sheridan's commanding officer confirming that Sheridan has been ordered to active duty as of January 12, 2021, in conjunction with his deployment described in Exhibit A.

For personal (law enforcement officer privilege) and National Security Purposes, this motion has been filed in redacted format on the public portal and under seal in unredacted format.

DEFENDANT, MATTHEW SHERIDAN,
By his Attorney,

/s/ Michael J. Colucci
Michael J. Colucci, Esq. #3302
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